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BROWN, T

EXAMINER

2601

ART UNIT 8 PAPER NUMBER

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
3. Notice of Art Cited by Applicant, PTO-1449.
5. Information on How to Effect Drawing Changes, PTO-1474.
2. Notice re Patent Drawing, PTO-948.
4. Notice of Informal Patent Application, Form PTO-152.
6. _____

Part II SUMMARY OF ACTION

1. Claims 29-73 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims 60, 66, 68, 69 and 73 are allowed.

4. Claims 29-59, 61-65, 67 and 70-72 are rejected.

5. Claims _____ are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable. not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed on _____, has been approved. disapproved (see explanation).

12. Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other: The terminal disclaimer filed 3/2/92 has been accepted.

EXAMINER'S ACTION

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1. The application was filed without Figures 6 and 8 of the drawings, which obviously are required. Inasmuch as those figures exist in the parent application, they obviously can be added to the present application without introduction of new matter. Correction is required.
2. The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action of one or more of the predecessor applications.
3. In view of additional subject matter obviously claimed in this application, a supplemental declaration is required. See MPEP Section 201.06(a), page 200-8, first column, sixth paragraph.
4. The introductory specification paragraph added by the (first) preliminary amendment of December 3, 1991 (Paper No. 3) contains two obvious errors. The present application is a division rather than a "continuation" of parent application S.N. 640,337, and the stated patent number of predecessor application S.N. 194,258 obviously is incorrect. Appropriate corrections are required.
5. The disclosure is objectionable for failing to provide an adequate written description and enabling disclosure of various aspects of several of the present claims, as will be detailed below.

Lines 4-7 of claim 29 refer to provision by the "communication facility" of "called terminal signals to a called station representative of the called station" (emphasis added),

presumably intended to refer to the "DNIS" type service referred to in the text. As applicant's "interface system" is described, the "processing system" (e.g., P1) thereof may receive such (DNIS) signals from the facility C, obviously via an ACD AC1. However, there obviously is no "called station" per se in the described system which actually receives the DNIS signals. Furthermore, lines 16-18 of the claim, in referring to coupling of a "specific caller" to the "function unit means", implies that the caller must somehow be identified before the coupling, and such identification obviously cannot be based on the DNIS signals, which as is well known do not identify a caller.

Note also claim 42, lines 4-6, which allude to the "facility" providing "called terminal digital signals to a called station representative of the calling station" (emphasis added), which not only refers to a "called station" that obviously does not exist as such in applicant's system; but furthermore requires that called terminal signals be representative of a calling station, which clearly is inaccurate. Claim 42 furthermore is found inaccurate in the requirement of lines 21-23 that a plurality of calls be selectively coupled to the "function unit means...in accordance with said called terminal digital signals". The examiner finds in the text no provision for plural calls to be selectively coupled to the "function unit means" in accordance with called terminal signals provided to a called station, much less wherein such signals are representative of a calling station.

Claims 29 and 42 both refer to an "audio broadcast" with which a "format" is said to be associated (lines 8-10 of each claim). The term "audio broadcast" is not found in the text, nor is it clear to what applicant intended that term to refer. The

text does refer several times to a television "broadcast", but not to an "audio broadcast". The subject term obviously either should be modified, or appropriate correlation with the text established.

Claim 43 refers to "an "800" toll free service", and claim 57 refers to "a [sic] "800" toll free calling mode", neither of which is found to be mentioned anywhere in applicant's text or drawings.

Lines 23-24 of claim 50 refer to "testing caller data signals provided by...individual callers to specify a consumable participation key" (emphasis added), support for which is questioned. As the examiner understands the text apparent descriptions of the "consumable participation key" (see for example page 14, lines 18-27; page 18, lines 16-23; and page 33, lines 11-28) each such key apparently is intended to be "specified" with respect to an individual caller, rather than plural callers specifying the same key, as the claim on its face would require. Note also the same questionable requirement at claim 63, lines 22-24; claim 67, lines 4-5; and claim 71, lines 20-22.

Also found inaccurate is the requirement of claim 70, lines 14-16, "actuating said remote terminals as to provide vocal operating instructions to one of said individual callers" (emphasis added). No provision is found in the text for plural terminals to be "actuated" for the provision of instructions to one caller.

6. Claims 29-59, 61, 63-65, 67 and 70-72 are rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the objection to the specification.

7. Claims 42 and 62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack antecedent basis: "the calling station" (claim 42, line 6), and "the calling number" (claim 62, lines 8-9).

8. Claims 60, 66, 68, 69 and 73 are allowed, conditioned on cancellation of obviously conflicting claims of the grandparent application S.N. 335,923 (see comments in Section 11 below).

9. Claim 62 apparently would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, and assuming that conflicting claims of the predecessor application '923 are canceled, (see Section 11 below).

10. Because of the noted problems, the examiner is unable to meaningfully compare claims 29-59, 61, 63-65, 67 and 70-72 to the prior art. After any amendments or replacements for those claims, applicant should point out how they differ from the prior art of record, and explain why he considers the presumably differing combinations to be unobvious thereover.

11. The examiner notes applicant's statement (in the "SUPPLEMENTAL PRELIMINARY AMENDMENT", Paper No. 5, page 18, lines 6-8) of intent to cancel corresponding claims in the grandparent application S.N. 335,923 "at the appropriate time". In the latter case, applicant filed an amendment after final (Paper No. 23 thereof) which in fact does request cancellation of the

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corresponding claims. The examiner has indicated in the '923 case that the latter amendment will be entered upon submission of applicant's brief therein. However, until the amendment is entered, there remains a potential for conflict between the claims of the two cases. As long as the subject claims remain in the '923 case, the claims cannot be allowed in this one.

12. Any inquiry concerning this communication or earlier communications by the examiner should be directed to Examiner Thomas W. Brown, whose telephone number is (703)308-4964. Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist whose telephone number is (703)308-0962.

Thomas W. Brown
THOMAS W. BROWN
PRIMARY EXAMINER
GROUP 261

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4/15/92